

MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING

February 28, 2006

Present

HJ: Henry Jungmann, Chairperson LG: Lucy Gertz LC: Lori Capone, Director
RS: Robert Sherburne, Vice Chair JZ: Jeanne Zarba GC: Gloria Clancy, Clerk
FZ: Frank Zarba (came in at 7:40 P.M.)

Absent

CH: Cynthia Hanna JK: Jeff Kablik BL: Brian Logue, Associate Member

7:00 Meeting opened by Henry Jungmann, Chairperson

7:02 Robert Boulanger - 121 Sherburne Avenue – Notice of Intent: (Map 27, Parcel 50E) Proposed upgrade of an existing, failed sewage disposal system within the buffer zone. Mr. John Visniewski of Cornerstone Land Consultants, LLC represented the applicant, Mr. Boulanger, who was also present. Grading is proposed up to the wetland line. He said the system would consist of two 1500-gallon tanks and a leach field. It will not be any larger than existing, but placement is dictated by the position of buildings on site and neighboring wells. LC recommended silt fence and hay bales and said this project as proposed will not be more injurious to the bvz than existing conditions, but will improve the groundwater and surface water quality as the present system is failing. LC asked about access to the site. He said it will be a challenge, but they plan to use an excavator on tracks, which will be less disturbing to the ground and still be able to maneuver through the buffer zone area. JZ asked if there would be any tree removal. He said the area is mostly scrubby stuff. HJ asked for abutter comments. Mr. Arthur Cornellier of 109 Sherburne Avenue said he owns a parcel abutting the project and has had it perced for future development. He is concerned that the project will cause his property to become even more wet than it is, and prevent him from building on it in the future. Mr. Visniewski said that the grading would be done in a way that will lesson the slope and not change any water levels. HJ said that a septic system is not considered impervious surface and will increase run-off to Mr. Cornellier's property.

RS: Motion to close this hearing.

LG: 2nd.

Unanimous (4-0)

JZ: Motion to issue an Order of Conditions for 121 Sherburne Avenue with the condition of silt fencing and hay bales and contingent upon Board of Health approval of the system design.

LG: 2nd.

Unanimous (4-0)

7:15 (7:20) Dennis Page - 28 Farwell Road, Lot 1 – Notice of Intent: (Map 20, Parcel 53) Proposed construction of a single family dwelling, driveway, roof top infiltration, trench drain, well, grading and associated utilities within the buffer zone.

RS: Motion to waive the reading of the Legal Ad.

JZ: 2nd.

Unanimous (4-0).

RS: Motion to waive the reading of the Abutters List.

JZ: 2nd.

Unanimous (4-0).

Steve Eriksen of Norse Environmental Services represented the applicant who was also present. The construction associated with this lot maintains a minimum of 30-foot no disturbance from an intermittent stream with associated bordering vegetated wetland with the installation of silt fence and haybales as a siltation barrier. A stone-lined trench is proposed on the resource area side of the driveway to treat runoff. A small portion of the driveway does not maintain a 50-foot setback for impervious surface. LC suggested that this should be redesigned to maintain this setback. Steve said we could condition that. DEP has issued a file number with no additional comments. LC said that the Tax Collector has indicated that there are taxes owed regarding this application. The applicant said he would look into that.

RS: Motion to close this hearing.

LG: 2nd.

Unanimous (4-0)

JZ: Motion to issue an Order of Conditions for 28 Farwell Road, Lot 1 contingent upon receipt of a revised plan showing the driveway moved over to maintain the 50-foot setback.

RS: 2nd.

Unanimous (4-0)

7:20 (7:30) Linette Rivera – Lot 12 River Bend Road – Notice of Intent: (Map 20B, Parcel 29, Lot 12) (Continued from 12/13/05, 1/10/06 & 2/14/06) Clear 56' x 12' area for driveway/parking and place 6" or less of pervious crushed stone, clear path to dock area, storage of dock, placement of picnic table and storage container, cut invasive plants, spot treat poison ivy with Ortho Poison Ivy Killer. All work within riverfront area. Some activities located within floodplain. Town counsel still has not provided us with an opinion on the legal matters. The applicant requests a continuance. LC said that our next scheduled meeting would have been March 14. That meeting has to be cancelled as the Town has set that date for a Special Town Meeting. LC commented that one hearing scheduled for 3/14 has indicated that they would prefer the Commission hold an additional hearing in March. The Commission opted to only hold their regularly scheduled meeting of March 28th.

LG: Motion to continue this hearing to March 28, 2006 at 7:30 P.M.

RS: 2nd.

Unanimous (4-0)

7:25 (7:32) Eric Gardner – 72 Progress Avenue – Notice of Intent: (Map 13, Parcel 46) (Continued from 10/25/05, 11/8/05, 12/13/05, 1/10, 1/24 & 2/14/06) Proposed construction of a commercial building, bituminous pavement, landscaping, grading and associated utilities within the 100 ft buffer zone. Steve Eriksen, of Norse Environmental services, represented the applicant who was also present. Mr. Eriksen reminded the members that this filing is for nine Industrial Condo-type Units. There is a proposed filling of a local jurisdictional wetland., and a small area of replication . LC had a meeting with the applicant, his engineers and Holmberg & Howe since the last meeting and most issues were resolved. Mr. Eriksen read from a letter of comments from Jeff Rider dated 2/27/06. LC said that except for four highlighted issues, Jeff is satisfied with the plan. There was discussion of the four issues and it was agreed that the project would be conditioned that the O & M Plan, Section 5.5.3 of the drainage report, would be included as part of the Order of Conditions.

RS: Motion to close this hearing.

JZ: 2nd.

4 Yeas; 1 Abstained - Motion Carried

JZ: Motion to issue an Order of Conditions for 72 Progress Avenue per plan revised 2/27/06 with the condition that the Operation and Maintenance Plan become included in the Order of Conditions.

RS: 2nd.

4 Yeas; 1 Abstained - Motion Carried

7:30 Merrimack Landing Realty Trust – 91 & 95 Middlesex Road – Notice of Intent: (Map 27, Parcel 2, Lot 0 & 1) (Continued from 11/8/05, 12/13/05, 1/10, 1/24 & 2/14/06) Construction of twenty-two, eight unit townhouse style condominiums and apartment buildings, a twenty-four foot wide access drive, parking areas, associated grading, subsurface utilities and associated landscaping, a portion of which is located within 100 feet to a resource area and within the 100 year flood plain. Steve Eriksen, of Norse Environmental Services, represented the applicants who were also present. The applicant submitted revised plans to Holmberg & Howe for review on February 22nd. Jeff Rider still needs to review them. The applicant has submitted the plans for the MESA filing. LC requested the Commission get a copy of the MESA application. Mr. Eriksen described to the members, the measures that will be taken to protect the endangered dragonflies. Mr. Eriksen said he received a letter from Natural Heritage today with the determination that based on the revised landscaping plan and time restrictions on mowing, the project, as currently proposed, will not result in a prohibited “take” of state listed rare species.

JZ: Motion to continue this hearing to March 28, 2006 at 7:35 P.M.

LG: 2nd.

Unanimous (5-0)

7:40 (7:45) Scott Georgoulis – 63 Coburn Road – Notice of Intent: (Map 26, Parcel 41) Raze existing house and proposed construction of a new single family dwelling, associated utilities and grading within the buffer zone and Riverfront Area.

(RS recused himself from this hearing as he is an abutter.)

FZ: Motion to waive the reading of the Legal Ad.

JZ: 2nd.

Unanimous (4-0).

JZ: Motion to waive the reading of the Abutters List.

LG: 2nd.

Unanimous (4-0).

James Abreau is the general contractor for this job and he presented the plan for the applicant. LC pointed out that the resource areas on site include Bull Run, its bank and associated buffer zone, 100-year floodplain, and riverfront area. The existing house is located 10 feet from the floodplain and 22 feet from the edge of pond and is located almost entirely within the riverfront area. The proposed house would be located 54 feet from the floodplain, 64 feet from the bank, and located almost completely outside the riverfront area. The whole lot is presently disturbed, however, there will be an increase in impervious surface as the new driveway is proposed as asphalt and the existing driveway is gravel. Mr. Abreau said that the existing septic is to be removed and the house will be tied into sewer. The foundation hole of the razed house will be left to act as a detention area and back-filled after the new foundation is installed. LC recommended that a construction schedule should be submitted. She said that DEP has not issued a file number regarding this filing yet, however if the members want to vote tonight because of the month long wait until the next meeting, they could make it contingent upon receipt of the DEP #. HJ opened the hearing to abutters. Except for RS there were none. RS said he sees no problem with the project.

FZ: Motion to close this hearing.

LG: 2nd.

Unanimous (4-0)

JZ: Motion to issue an Order of Conditions for 63 Coburn Road per plan with the condition that the applicant provide the Commission with a Construction Schedule and contingent upon receipt of a DEP #.

LG: 2nd.

Unanimous (4-0)

7:45 (7:55) Mary Calandrella – 6 Jefferson Drive – Request for Determination of Applicability: (Map 24, Parcel 34) After the fact filing for construction of a 10'x 25' temporary paddock for one pony within the buffer zone.

FZ: Motion to waive the reading of the Legal Ad.

JZ: 2nd.

Unanimous (5-0).

RS: Motion to waive the reading of the Abutters List.

FZ: 2nd.

Unanimous (5-0).

Mary Calandrella and her daughter were present. LC pointed out that the resource areas on site include an intermittent stream, its associated bordering vegetated wetland and buffer zone. This filing is in response to a complaint received by this office. The corral is already installed and should be removed within a couple months as the horse will be boarded off site or sold. The existing corral area is located about 30 feet from a bordering vegetated wetland. Potential impacts to the resource area include erosion from the exposed soils in the corral. Additionally the manure is being stockpiled adjacent to the wetland. The applicant is under order from the Board of Health to remove these piles by April 1st. LC recommended having the applicant install silt fence and haybales behind the corral area and stabilized the area with seed as soon as possible in the spring. If the corral area is to remain for some other purpose, an earthen berm should be installed along the back of the corral area to protect the resource area from potential erosion. After much discussion among the members and Ms. Calandrella, HJ opened the hearing to abutters. Attorney David Plunkett spoke on behalf of abutters Michael and Cheryl Frechette. Concerns raised by Atty. Plunkett revolved around the "mass quantities of fecal matter". There was discussion.

FZ: Motion to close this hearing on 6 Jefferson Drive.

RS: 2nd.

Unanimous (5-0)

FZ: Motion to issue a Negative Determination for 6 Jefferson Drive with the following conditions:

- 1.) The applicant shall install silt fence and/or haybales behind the corral area.
- 2.) The applicant shall stabilize the area with seed as soon as possible in the spring.
- 3.) An earthen berm shall be installed along the back of the corral area to protect the resource area from potential erosion.
- 4.) The applicant shall remove the piles of manure by March 15, 2006 or an Enforcement Order will be issued.
- 5.) Any future manure placement shall be as far from the resource area as possible.

RS: 2nd.

Unanimous (5-0)

Other Business:

- ❖ Request for an **Extension** of OOC for 61 Progress Avenue. LC told the members that the building is complete but the applicant would like a one-year extension to complete the landscaping.

JZ: Motion to issue a One-Year Extension OOC for 61 Progress Avenue.

LG: 2nd.

Unanimous (5-0)

- ❖ The members signed the OOC for 121 Sherburne Ave., 72 Progress Ave., the Extension for 61 Progress Ave., and the Negative Determination of Applicability for 6 Jefferson Dr.
- ❖ **Director Determination** for Darryl Wickens - 18 & 24 Progress Avenue. After the fact request for permission to remove 5 trees. One of which had already fallen on the building and a truck. LC passed out photos of the damage the tree had done and the other trees that had been cut. All stumps remained for provide soil stability. The applicant and the contractor both thought that the other had already called and got permission.
JZ: Motion to approve the Director Determination for tree removal at 18 & 24 Progress Avenue.
FZ: 2nd.
Unanimous (5-0)
- ❖ LC referred to a letter from Holmberg & Howe on the review of the School's plan to abate the problems of the breach in the retention area.
- ❖ LC told the members that Vesper Country Club is withdrawing their request for a permit for Depredation of Canada Geese. LG told the members what she had learned from the Audubon Society as to their preferred methods of dealing with problem geese. She doubts that they would have permitted the shooting of 4 per day. Their best practice method is to use Border Collies to scare off the geese and keep them from returning. Their second best practice is to install black plastic fencing between the shore and the fairways. The geese do not feel comfortable nesting where they cannot see the nest from the water.
- ❖ **Director Determination** for Guy Constantine – 401 Dunstable Road. The homeowner had trees fall down in the windstorm. Most were located in the wetland area. Mr. Constantine is requesting permission to remove three more pine trees at the wetland line that are dead in fear that they may fall on his house. The stumps shall remain due to their close proximity to the wetland boundary and to provide soil stability. He would also like permission to remove the trees that have fallen. The Commission agreed with LC that the deadfall in the wetlands should remain as it provides wildlife habitat.
FZ: Motion to approve the Director Determination for three tree removal at 401 Dunstable Road.
JZ: 2nd.
Unanimous (5-0)
- ❖ **Director Determination** for Joe Nolet – 66 Farwell Road. They are adding a garage and need to clear the area. The garage is located outside the buffer zone. The tree clearing would maintain a minimum of 55 feet of no disturbance from the wetland boundary and would consist of the removal of six 36"+ caliper trees, one 16" caliper tree and all saplings except for the hemlock.
FZ: Motion to approve the Director Determination for 66 Farwell Road.
JZ: 2nd.
Unanimous (5-0)
- ❖ **Director Determination** for Kevin Parrington – 468 Dunstable Road. Mr. Parrington is requesting permission to remove one tree. The tree split in the wind storm and is threatening his house. The

tree is located 20 feet from a bordering vegetated wetland. The stump shall remain to provide soil stability.

- ❖ **JZ: Motion** to approve the Director Determination for tree removal at 468 Dunstable Road.
RS: 2nd.

Unanimous (5-0)

- ❖ **Director Determination** for 80 Danforth Road. The building inspector has asked the applicant to move part of the driveway over. LC pointed out on the plan where we approved it and where it will change. It will still maintain our 50' setback.

FZ: Motion to approve the Director Determination for 80 Danforth Road.

RS: 2nd.

Unanimous (5-0)

- ❖ Reminder that March 14 is Special Town Meeting. The rezoning for the proposed Stonehedge Subdivision will be discussed.
- ❖ MACC Conference is this Saturday. LC, HJ and RS will be attending.
- ❖ Dracut Water District has called with a complaint that ATVs are causing problems in their well fields. They feel that a paved stream crossing on the property of John Porter is giving them access to the area, and they want us to require Mr. Porter to remove it. The members did not feel it was their place to require Mr. Porter to do that, and that doing so would disturb the area too much. *No action was taken.*
- ❖ LC informed the members that JK is considering tendered his resignation effective in April. The Commission was sorry to hear this and will make an effort to recruit a new member.

JZ: Motion to adjourn.

RS: 2nd.

Unanimous (5-0).

Meeting adjourned at 9:20 P.M.

Respectfully submitted by Gloria Clancy, Conservation Clerk